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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,667	10/25/2001	Bruce A. Morgan	10287-044001 / MGH 1287.1	8278

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EXAMINER
MCKELVEY, TERRY ALAN

ART UNIT	PAPER NUMBER
1636	

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/037,667	MORGAN, BRUCE A.	
	Examiner	Art Unit	
	Terry A. McKelvey	1636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-34 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, drawn to method of identifying a neural progenitor cell, classified in class 435, subclasses 6, 7.1, and 7.8.

II. Claims 10-22, only as drawn to method of modulating cell differentiation comprising modulating expression of Daedalos, classified in class 435, subclass 375 and class 514, subclass 1.

III. Claims 10-22, only as drawn to method of modulating cell differentiation comprising modulating levels of Daedalos, classified in class 435, subclass 375 and class 514, subclass 1.

IV. Claims 10-22, only as drawn to method of modulating cell differentiation comprising modulating activity of Daedalos, classified in class 435, subclass 375 and class 514, subclass 1.

V. Claims 23-26 and 29-34, drawn to method of determining if a subject is at risk for a neural cell related disorder comprising evaluating the level of expression

of Daedalus in a cell in a subject, classified in class 435, subclasses 6, 7.1, and 7.8.

VI. Claims 23-26 and 29-34, drawn to method of determining if a subject is at risk for a neural cell related disorder comprising evaluating the level of protein of Daedalus in a cell in a subject, classified in class 435, subclasses 6, 7.1, and 7.8.

VII. Claims 23-26 and 29-34, drawn to method of determining if a subject is at risk for a neural cell related disorder comprising evaluating the level of activity of Daedalus in a cell in a subject, classified in class 435, subclasses 6, 7.1, and 7.8.

VIII. Claims 27-28, drawn to method of obtaining a population of neural cells comprising inhibiting the expression of Daedalos in a neural progenitor cell, classified in class 435, subclass 375.

IX. Claims 27-28, drawn to method of obtaining a population of neural cells comprising inhibiting the levels of Daedalos in a neural progenitor cell, classified in class 435, subclass 375.

X. Claims 27-28, drawn to method of obtaining a population of neural cells comprising inhibiting the

activity of Daedalos in a neural progenitor cell, classified in class 435, subclass 375.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I-X are biologically and functionally different and distinct from each other and thus one does not render the other obvious. The methods of Groups I-X comprise steps which are not required for or present in the methods of the other groups: evaluating the level of expression of Daedalos in a sample of cells compared to a control to identify the sample as a neural progenitor cell (Group I), modulating the expression of Daedalos in a cell to modulate differentiation of the cell (Group II), modulating the levels of Daedalos in a cell to modulate differentiation of the cell (Group III), modulating the activity of Daedalos in a cell to modulate differentiation of the cell (Group IV), evaluating the level of expression of Daedalos in a cell from a subject at risk for a neural cell related disorder (Group V), evaluating the level of protein of Daedalos in a cell from a subject at risk for a neural cell related disorder (Group VI), evaluating the level of activity of Daedalos in a cell from a subject at risk for a neural cell related disorder (Group VII), allowing a neural progenitor cell which has inhibited expression of Daedalos to divide to produce

a population of neural cells (Group VIII), allowing a neural progenitor cell which has inhibited levels of Daedalos to divide to produce a population of neural cells (Group IX), allowing a neural progenitor cell which has inhibited activity of Daedalos to divide to produce a population of neural cells (Group X). The end result of the methods are different because of the different method steps. Thus, the operation, function and effects of these different methods are different and distinct from each other. Therefore, the inventions of these different, distinct groups are capable of supporting separate patents.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and the search required for each group is not required for the other groups because each group requires a different non-patent literature search due to each group comprising different products and/or method steps, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Certain papers related to this application may be submitted to Art Unit 1636 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone numbers for the Group are (703) 308-4242 and (703) 305-3014. NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning rejections or other major issues in this communication or earlier communications from the examiner should be directed to Terry A. McKelvey whose telephone number is (703) 305-7213. The examiner can normally be reached on Monday through Friday, except for Wednesdays, from about 7:30 AM to about 6:00 PM. A phone message left at this number will be responded to as soon as possible (i.e., shortly after the examiner returns to his office).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel can be reached on (703) 305-1998.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Terry A. McKelvey, Ph.D.
Primary Examiner
Art Unit 1636

April 7, 2003